

Practitioner's Docket No. 60,680-531**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**In re application of: Pineo et al.Application No.: 09/918,082 Group No.: 3743Filed: 07/30/2001 Examiner: CiricFor: PLUG BYPASS VALVES AND HEAT EXCHANGERS

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION AND FEE FOR EXTENSION OF TIME
TO MAINTAIN PARENT CASE THAT IS TO BE ABANDONED
WHEN FILING NEW APPLICATION CLAIMING ITS BENEFIT

NOTE: Where an extension of time is sought solely for the purpose of filing a continuation application under 35 U.S.C. § 120, and where the prior application is to be abandoned in favor of the continuing application, the filing of a response as required by 37 C.F.R. §§ 1.111 or 1.113 is considered to be an unnecessary expenditure of resources by the applicant and, in these situations, the PTO will accept the filing of a continuing application as a response under 37 C.F.R. § 1.136. Notice of May 13, 1983 (1031 O.G. 11).

NOTE: The PTO finds it useful if a copy of the petition filed in the prior application extending the term for response is filed with the papers constituting the filing of the continuation application. Notice of Nov. 5, 1985 (1060 O.G. 27).

NOTE: 37 CFR 1.704(c): "Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

(When using Express Mail, the Express Mail label number is **mandatory**;
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

☒ deposited with the United States Postal Service in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

37 C.F.R. § 1.8(a)**37 C.F.R. § 1.10 ***☐ with sufficient postage as first class mail.☒ as "Express Mail Post Office to Addressee"Mailing Label No. EV222032986US (mandatory)**TRANSMISSION**☐ facsimile transmitted to the Patent and Trademark Office, (703)

Signature

Mary F. Peltier

(type or print name of person certifying)

Date: 11/01/2005

* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

(Amendment, Petition and Fee for Extension of Time to Maintain Parent Case That is to be Abandoned When Filing Applicant Claiming Its Benefit [4-5]—page 1 of 4)

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"(11) Further prosecution via a continuing application, in which case the period of adjustment set forth in § 1.703 shall not include any period that is prior to the actual filing date of the application that resulted in the patent."

1. This is a *bona fide* attempt by applicant to respond to the outstanding office letter with a separately filed:

(check (a), (b), or (c), as applicable)

- (a) ☒ Continuation application
(b) ☐ Continuation-in-part application
(c) ☐ Divisional application (where parent case is to be abandoned)

A copy of this petition is being filed with the papers constituting the filing of the separately filed application.

2. This is a petition under 37 C.F.R. § 1.136(a) for an extension of time to respond to

(check and complete (d) or (e), as applicable)

- (d) ☒ the Office Action mailed 06/02/2005
(e) ☐ other _____

3. Included herein is an express abandonment of this application conditioned upon the granting of this petition and the granting of a filing date to the continuing application, so as to make the continuing application copending with this application. (Notice of May 13, 1983, 1031 O.G. 11-12).

4. Applicant is

- ☐ a small entity.

The statement:

- ☐ is enclosed.
☐ is already filed in the parent application. This status is still proper and its benefit under 37 C.F.R. § 1.28(a) is hereby claimed.

- ☒ other than a small entity.

5. Extension requested

NOTE: 37 C.F.R. § 1.704 (b) ". . . an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph."

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136 apply.

(Amendment, Petition and Fee for Extension of Time to Maintain Parent Case That is to be Abandoned When Filing Applicant Claiming Its Benefit [4-5]—page 2 of 4)

(complete (a) or (b), as applicable)

- (a) ☒ Applicant petitions for an extension of time under 37 C.F.R. § 1.136(a) (fees: 37 C.F.R. § 1.17(a)(1)-(4)) for the total number of months checked below:

| Extension (months) | Fee for other than small entity | Fee for small entity |
|--|------------------------------------|-------------------------|
| <input type="checkbox"/> one month | \$ 120.00 | \$ 60.00 |
| <input checked="" type="checkbox"/> two months | \$ 450.00 | \$ 225.00 |
| <input type="checkbox"/> three months | \$ 1,020.00 | \$ 510.00 |
| <input type="checkbox"/> four months | \$ 1,590.00 | \$ 795.00 |

Fee: \$ 450.00

If an additional extension of time is required, please consider this a petition therefor.

(check and complete the next item, if applicable)

- ☒ An extension for one months has already been secured and the fee paid therefor of \$ 120.00 is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ 330.00

6. Fee Payment

- ☐ Attached is a check in the sum of \$ _____.
- ☒ Charge Account No. 04-2223 the sum of \$ 330.00.

A duplicate of this transmittal is attached.

7. Fee Deficiency

NOTE: If there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum six-month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in returning the papers to the PTO Finance Branch in order to apply these charges prior to action on the cases. Authorization to charge the deposit account for any fee deficiency should be checked. See the Notice of April 7, 1986 (1065 O.G. 31-33).

- ☒ The Office is hereby authorized to charge, in the manner shown above, the following additional fees that may be required by this paper and during the entire pendency of this application.

Reg. No.: 43,167

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SIGNATURE OF PRACTITIONER

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(type or print name of practitioner)

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(Amendment, Petition and Fee for Extension of Time to Maintain Parent Case That is to be Abandoned When Filing Applicant Claiming Its Benefit [4-5]—page 4 of 4)